

### **REMARKS/ARGUMENTS**

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

Claims 1-19 are now pending.

Original claim 8 was rejected under 35 USC 112, second paragraph, as being indefinite. Claim 8 has been revised above to be more specifically directed to the surface shape of the placement surface. Reconsideration and withdrawal of the rejection is therefore requested.

Original claims 1-9 were rejected under 35 USC 103(a) as being unpatentable over Luca [sic; De Luca] in view of Kawanishi in further view of Patois. Applicant respectfully traverses this rejection.

The present invention as claimed in claim 1 includes, *inter alia*, a conveying apparatus that has pads having a placement surface for placing a rod-like ceramic molding, each pad has an axial length shorter than half of an axial length of a ceramic block to be cut from the ceramic molding and a portion of the rod-like ceramic molding to be cut off is conveyed by two or more pads.

De Luca discloses that moist concrete passes between a pair of endless conveyor belts C and E so that most of the air and water occluded in the concrete can be removed as vapor. In this regard, it is to be noted that De Luca's conveyors are disclosed as comprising fabric which allow the air and water to be removed to vacuum tank 16. De Luca further advises that conveyor belts C and E not only move the concrete strip but are necessary to maintain its shape. Once the strip emerges from the conveyors, it is cut into brick lengths. As recognized by the Examiner, De Luca does not disclose or suggest pads.

Recognizing the deficiencies of De Luca with respect to the combination claimed by applicant, the Examiner characterizes Kawanishi as teaching the use of protrusions, which allegedly read on "pads" attached to the belt, and asserts that it would be obvious to modify De Luca to include protrusions as taught by Kawanishi "to prevent material loss and damage as it is processed through the conveyor system". Applicant respectfully traverses the proposed modification of De Luca in view of Kawanishi.

Kawanishi discloses a method and apparatus for conveying sheets and the like for a folding machine. Thus, the Examiner suggests that it would be obvious to modify the conveying apparatus for extruded but not yet solidified concrete of De Luca in view of the conveyor for a folding machine that Kawanishi teaches. In particular, the Examiner suggests that protrusions Kawanishi discloses on his conveyor for engaging the sheet conveyed thereby would "obviously" be incorporated in the De Luca machine for molding brick. Applicant disagrees. As noted above, De Luca clearly discloses that the conveyor engages the concrete so that the belts bear strongly against the surface of the moving concrete strip (column 2, lines 28-30). Clearly the skilled artisan would not find it in anyway obvious or advantageous to incorporate protrusions as taught by Kawanishi on the conveyor surface of De Luca as such protrusions, particularly under the strong bearing force taught by De Luca, would form impressions on the surface of the concrete molding being conveyed.

Section 103 does not allow the Examiner to engage in picking and choosing from the prior art only to the extent that it will support a holding of obviousness, while excluding parts of the prior art essential to the full appreciation of what the prior art suggests to one of ordinary skill in the art. In re Wesslau, 147 USPQ 391 (CCPA 1975).

Moreover, Kawanishi does not teach or suggest that the concrete material being conveyed in De Luca would face any conveying problems or holding problems during conveyance and cutting. Thus, Kawanishi does not teach or suggest that any modification to De Luca would be necessary or desirable. Thus, not only does

Kawanishi not motivate the skilled artisan to modify De Luca but in fact the skilled artisan would recognize that such a modification to a concrete brick molding machine would be undesirable and therefore would not effect the combination the Examiner proposes.

It is therefore respectfully submitted that the Examiner's proposed modification of De Luca in view of Kawanishi would not have been obvious to the skilled artisan.

The Examiner further recognizes that the proposed combination of De Luca and Kawanishi does not anticipate nor render obvious a deformable material as recited in e.g., claim 5. Once again, however, it appears that the Examiner has looked to the prior art (in this case Patois) motivated by hindsight knowledge of applicant's claims, and not because one skilled in the art would find the teachings of Patois to be of any use or advantage in De Luca. In this regard, Patois discloses a conveyor belt apparatus for bottles wherein a pair of conveyor belts are constructed to resiliently grip the neck rings of the bottles to be conveyed. Patois' disclosure of particulars of an apparatus for conveying bottles gripped by the neck ring thereof would not be considered by the skilled artisan to be of any relevance whatsoever to the conveyance of molded concrete material so that air and water are removed before cutting. Because Patois is directed specifically to conveyors 62,64 for engaging a neck ring 18 of a bottle and are not configured to nor otherwise relevant to a conveyor for conveying molded concrete material and because De Luca in any event discloses fabric conveyors to allow air and water to pass therethrough, it is respectfully submitted that the Examiner's proposed prior art combination would not have been obvious to one skilled in the art.

It is clear that the initial burden of establishing a basis for denying patentability to a claimed invention rests upon the Examiner. In re Piasecki, 745 F. 2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In establishing a *prima facie* case of obviousness under 35 U.S.C. § 103, it is incumbent upon the Examiner to provide a reason why one of ordinary skill in the art would have been led to arrive at the claimed invention from the

prior art. Ex parte Clapp, 227 USPQ 972 (BPAI 1985). To this end, the requisite motivation must stem from some teaching, suggestion or inference in the prior art as a whole or from the knowledge generally available to one of ordinary skill in the art and not from applicant's disclosure. See, for example, Uniroyal, Inc. v. Rudkin-Wiley Corp. 837 F.2d 1044, 7 USPQ 2d 1434 (Fed. Cir. 1988).

As the CAFC has said, obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination. ACS Hospital Systems v Montefiore Hospital, 221 USPQ 929, 933 (Fed. Cir. 1984). There must be a suggestion in the art relied upon to use what one reference discloses in or in combination with the disclosure of the other reference or references relied upon by the Examiner. In re Grabiak, 226 USPQ 870, 872 (Fed. Cir. 1986).

For all the reasons advanced above, reconsideration and withdrawal of the Examiner's prior art rejection is solicited.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

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